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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4853 OF 2007
IN
FIRST APPEAL NO. 2259 OF 2007

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

Mr. Navin Parekh i/by Ms. Bhavna Shah for the applicant.

Mr. C.M.Kothari for respondent No.1.

CORAM : ANOOP V. MOHTA,J.

DATED : 9th October, 2007.

P.C.

1. Considering the grounds raised in the first appeal and as the same is admitted, the fact of interim order based by this Court on 21th December, 2005 in Appeal No. 982/2005 in terms as mentioned in para 5 need to be considered, at this stage of the proceeding.

2. The suit is dismissed, pending the trial pursuant to the above order there was interim protection /injunction from creating any third

party rights in respect of Survey No. 269/4 from parting with the possession thereof or from carrying out any development activity thereon.

3. The learned counsel appearing for respondent No.1 is objecting even for the same in view of the dismissal of the suit.

4. Considering the averments made and in view of the admission of the appeal and as the possession of the property in question is relevant aspect, it is just cannot be said to be overlooked in the present controversy. I am of the view that the pendency of the first appeal, an interim relief in terms of prayer clause (b) be maintained till final hearing of the appeal.

5. The civil application is disposed of, accordingly.

[ANOOP V. MOHTA, J.]